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In re Application of	:	DECISION ON RENEWED
Rivet et al	:	
PCT No.: PCT/US04/01845	:	
Application No: 10/553,611	:	PETITION UNDER
Int. Filing Date: 23 January 2004	:	
Priority Date: 25 January 2005	:	
Attorney's Docket No.: 67065-037 (PEPL-0112)	:	37 CFR 1.47(a)/ 1.181
For: MICROPAYMENT PROCESSING	:	
METHOD AND SYSTEM	:	

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)," filed on 08 January 2008.

BACKGROUND

In a decision from this Office on 08 June 2007, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that items (1)- (4) under 37 CFR 1.47(a) were not met, and the decision set a time period of response of two (2) months and extensions of time were available under 37 CFR 1.136(a).

On 05 December 2007, the United States Patent and Trademark Office mailed a "NOTICE OF ABANDONMENT" stating that the above-identified application is abandoned for failure to timely reply to the Decision on Petition mailed on 06/08/2007.

On 08 January 2008, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a) and Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a)" requesting reconsideration of the Office's decision of 08 June 2007, and to withdraw the abandonment mailed on 05 December 2007.

DISCUSSION

PETITION UNDER 37 CFR 1.181:

A review of the filed reveals that petitioner had time to response to the Decision mailed on 08 June 2007, and that petitioner's response on 08 January 2008 accompanied by a petition for a five-month extension time is timely.

The renewed petition under 37 CFR 1.47(a) is timely.

The petition under 37 CFR 1.181 is **GRANTED**. The Notice of Abandonment mailed on 05 December 2007 was in error and is hereby **VACATED**.

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition satisfies requirements (1), (3), and (4) under 37 CFR 1.47(a) but not item (2).

Regarding requirement (1), petitioner has provided the complete fee of \$200.00 under 37 CFR 1.17(g).

With respect to requirement (2), although the averments of Ms. Kellie S. Bickel and the signed postal receipts are sufficient to support a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventors for their signatures, the time period for their responses before filing the petition was too short. The application papers were mailed on December 18, 2007 and received on December 22, 2007 and December 27, 2007 by Mr. Gione and Mr. Carney, respectively but the renewed petition was filed on 08 January 2008 (less than a month for the nonsigning inventors to read, and decide to whether to respond). In fact, an email from Perry Solomon on December 21, 2007 states that the "end of year is very busy time." Accordingly, this is a short time period (about two weeks) to make a determination that they refuse to sign the papers.

With respect to requirement (3), a statement of the last known address of the missing inventors have been provided.

- (i) Perry Solomon
111 85th Street E #17G
New York, New York 10028
- (ii) Robert Carney
15 Newman Street
Cambridge, Massachusetts 02140

Regarding requirement (4), petitioner has provided an executed declaration signed by Ronald L. Rivest, Silvio Micali, Robert Nix, Prasad Jonnalagadda, Joseph Bergeron iii and Mark Bates on their behalf and on the behalf of the nonsigning joint inventors Perry Solommon and Robert Carney.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.181 is **GRANTED**.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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